

171 FERC ¶ 61,012  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;  
Richard Glick and Bernard L. McNamee.

PJM Interconnection, L.L.C.

Docket Nos. ER15-1387-005  
ER15-1344-006

ORDER DENYING REHEARING AND GRANTING CLARIFICATION

(Issued April 3, 2020)

1. On August 3, 2018, the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) reversed the Commission's acceptance of a March 26, 2015 proposal from the PJM Interconnection, L.L.C. (PJM) Transmission Owners to revise the PJM Open Access Transmission Tariff (PJM Tariff) pursuant to section 205 of the Federal Power Act (FPA).<sup>1</sup> PJM Transmission Owners had proposed to allocate 100 percent of the costs of projects that are included in the PJM Regional Transmission Expansion Plan (RTEP) solely to address individual transmission owner Form No. 715 local planning criteria to the transmission zone of the transmission owner whose Form No. 715 local planning criteria underlie each project (2015 PJM Transmission Owner Tariff Revision). The D.C. Circuit remanded the case to the Commission for further proceedings.<sup>2</sup>
2. On August 30, 2019, the Commission issued an order on remand rejecting the 2015 PJM Transmission Owner Tariff Revision and directing PJM to make a filing in eTariff to make all tariff corrections necessary to reflect the rejection of the 2015 PJM

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<sup>1</sup> *PJM Interconnection, L.L.C.*, 154 FERC ¶ 61,096 (February 2016 Order), *reh'g denied*, 157 FERC ¶ 61,192 (2016), *rev'd sub nom. Old Dominion Elec. Coop. v. FERC (Old Dominion)*, 898 F.3d 1254, *reh'g denied*, 905 F.3d 671 (D.C. Cir. 2018); 16 U.S.C. § 824d (2018).

<sup>2</sup> The appeal challenged both the orders in Docket No. ER15-1387 accepting the 2015 PJM Transmission Owner Tariff Revision and the orders in Docket No. ER15-1344 applying the revised PJM Tariff to specific projects. The D.C. Circuit set aside the orders under review to the extent they applied the 2015 PJM Transmission Owner Tariff Revision to specific projects at issue. *Old Dominion*, 898 F.3d at 1264.

Transmission Owner Tariff Revision.<sup>3</sup> The Commission also directed PJM to refile the assignment of cost responsibility in Schedule 12-Appendix A, of the PJM Tariff for transmission projects included in the RTEP between May 25, 2015, and the date of Order on Remand that solely address individual transmission owner Form No. 715 local planning criteria, consistent with that order.<sup>4</sup>

3. On September 23, 2019, Old Dominion Electric Cooperative (ODEC) and Dominion Energy Services, Inc. (Dominion) on behalf of Virginia Electric and Power Company filed a request for clarification and rehearing (ODEC and Dominion Request for Clarification).

4. On September 30, 2019, Consolidated Edison Company of New York, Inc. (Con Edison) filed a request for rehearing (Con Edison Request for Rehearing). Also, on September 30, 2019, Linden VFT, LLC (Linden) filed an answer to ODEC and Dominion's request for clarification and a request for rehearing (Linden Answer and Request for Rehearing).

5. As discussed below, ODEC and Dominion's request for clarification is granted. Con Edison and Linden's requests for rehearing are denied.

## **I. Background**

6. The factual background and procedural history are discussed in detail in the Order on Remand and will not be repeated here.<sup>5</sup>

7. Schedule 12 of the Tariff establishes Transmission Enhancement Charges and allows that “[o]ne or more of the Transmission Owners may be designated to construct and own and/or finance Required Transmission Enhancements by (1) the [PJM RTEP] periodically developed pursuant to Operating Agreement, Schedule 6 or (2) any joint planning or coordination agreement between PJM and another region or transmission planning authority set forth in Tariff, Schedule 12-Appendix B.”<sup>6</sup> PJM assigns the costs

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<sup>3</sup> *PJM Interconnection, L.L.C.* (Order on Remand), 168 FERC ¶ 61,133, at P 2 (2019).

<sup>4</sup> *Id.*

<sup>5</sup> *See* Order on Remand, 168 FERC ¶ 61,133 at PP 3-18.

<sup>6</sup> PJM, Intra-PJM Tariffs, Schedule 12, OATT Schedule 12, 14.0.0, § (a)(1). Required Transmission Enhancements are defined as “enhancements and expansions of the Transmission System that (1) a [RTEP] developed pursuant to Operating Agreement, Schedule 6 or (2) any joint planning or coordination agreement between PJM and another region or transmission planning authority set forth in Tariff, Schedule 12-Appendix B

of reliability projects that are selected in the RTEP for purposes of cost allocation pursuant to the cost allocation method that the Commission accepted in compliance with Order No. 1000.<sup>7</sup> Specifically, in the case of Regional Facilities and Necessary Lower Voltage Facilities that address a reliability need,<sup>8</sup> costs are allocated pursuant to a hybrid cost allocation method in which 50 percent of the costs of those facilities are allocated on a load-ratio share basis and the other 50 percent are allocated to the transmission owner zones based on the solution-based distribution factor (DFAX) method.<sup>9</sup> Prior to the 2015 PJM Transmission Owner Tariff Revision at issue in this proceeding, PJM assigned the costs of reliability projects that are included in the RTEP solely to address individual transmission owner Form No. 715 local planning criteria according to the PJM cost

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(‘Appendix B Agreement’) designates one or more of the Transmission Owner(s) to construct and own or finance.” PJM, Intra-PJM Tariffs, OATT Definitions – R - S, OATT Definitions – R - S, 18.2.0. Transmission Enhancement Charges are established to recover the revenue requirement with respect to a Required Transmission Enhancement. PJM, Intra-PJM Tariffs, Schedule 12, OATT Schedule 12, 14.0.0, § (a)(i).

<sup>7</sup> See *Transmission Planning & Cost Allocation by Transmission Owning & Operating Pub. Utils.*, Order No. 1000 (Order No. 1000), 136 FERC ¶ 61,051 (2011), *order on reh’g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh’g and clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff’d sub nom. S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir. 2014); see also *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,214 (2013), *order on reh’g and compliance*, 147 FERC ¶ 61,128 (2014), *order on reh’g and compliance*, 150 FERC ¶ 61,038, *order on reh’g and compliance*, 151 FERC ¶ 61,250 (2015).

<sup>8</sup> Regional Facilities are defined as Required Transmission Enhancements included in the RTEP that are transmission facilities that: (a) are AC facilities that operate at or above 500 kV; (b) are double-circuit AC facilities that operate at or above 345 kV; (c) are AC or DC shunt reactive resources connected to a facility from (a) or (b); or (d) are DC facilities that meet the necessary criteria as described in section (b)(i)(D). PJM, Intra-PJM Tariffs, Schedule 12, OATT Schedule 12, 14.0.0, § (b)(i) (Regional Facilities and Necessary Lower Voltage Facilities). Necessary Lower Voltage Facilities are defined as Required Transmission Enhancements included in the RTEP that are lower voltage facilities that must be constructed or reinforced to support new Regional Facilities. PJM, Intra-PJM Tariffs, Schedule 12, OATT Schedule 12, 14.0.0, § (b)(i) (Regional Facilities and Necessary Lower Voltage Facilities).

<sup>9</sup> See *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,214 at P 416 (the solution-based DFAX method “evaluates the projected relative use of a new Reliability Project by load in each zone and withdrawals by merchant transmission facilities, and through this power flow analysis, identifies projected benefits for individual entities in relation to power flows”).

allocation method accepted in compliance with Order No. 1000.<sup>10</sup> As relevant here, PJM used the solution-based DFAX method for 100 percent of the costs assigned pursuant to Lower Voltage Facilities to identify the beneficiaries of those facilities.<sup>11</sup>

8. As noted above, PJM Transmission Owners proposed the 2015 PJM Transmission Owner Tariff Revision to revise the PJM Tariff to allocate 100 percent of costs for projects that are included in the RTEP solely to address individual transmission owner Form No. 715 local planning criteria to the transmission zone of the transmission owner whose Form No. 715 local planning criteria underlie each project.<sup>12</sup> The Commission ultimately approved this filing.<sup>13</sup>

9. Subsequently, the D.C. Circuit found that the Commission acted arbitrarily and capriciously in approving the 2015 PJM Transmission Owner Tariff Revision and applying it to high-voltage projects, granted the petition for review, set aside the Commission orders, and remanded the case to the Commission for further proceedings consistent with the court's opinion.<sup>14</sup>

10. The D.C. Circuit stated that the 2015 PJM Transmission Owner Tariff Revision violated the cost-causation principle that requires "comparing the costs assessed against a party to the burdens imposed or benefits drawn by that party."<sup>15</sup> The D.C. Circuit found that, given the significant regional benefits of high-voltage transmission facilities, the Commission's decision to approve the 2015 PJM Transmission Owner Tariff Revision was arbitrary. The D.C. Circuit found that "the amendment denies cost sharing for *all* projects included in the Regional Plan only to satisfy the planning criteria of individual

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<sup>10</sup> See *supra* note 7.

<sup>11</sup> Lower Voltage Facilities are defined as Required Transmission Enhancements that: (a) are not Regional Facilities; and (b) are not "Necessary Lower Voltage Facilities." PJM, Intra-PJM Tariffs, Schedule 12, OATT Schedule 12, 14.0.0, § (b)(ii) (Lower Voltage Facilities).

<sup>12</sup> PJM Transmission Owners, Transmittal, Docket No. ER15-1387-000, at 2 (filed Mar. 26, 2015).

<sup>13</sup> *PJM Interconnection, L.L.C.*, 151 FERC ¶ 61,172, *granting reh'g*, 154 FERC ¶ 61,096, *reh'g denied*, 157 FERC ¶ 61,192.

<sup>14</sup> As previously noted, the D.C. Circuit set aside the orders under review to the extent they applied the 2015 PJM Transmission Owner Tariff Revision to the projects at issue. *Old Dominion*, 898 F.3d at 1264.

<sup>15</sup> *Old Dominion*, 898 F.3d at 1261 (internal citations omitted).

utilities—including for high-voltage transmission facilities”<sup>16</sup> and found that “the cost-causation principle focuses on project benefits.”<sup>17</sup> Accordingly, the D.C. Circuit concluded that the 2015 PJM Transmission Owner Tariff Revision “produced a severe misallocation of the costs of such projects,” stating that the Tariff revisions “involve a wholesale departure from the cost-causation principle, which would shift a disproportionate share of [the] costs” of these high-voltage projects to a single zone.<sup>18</sup>

11. In the Order on Remand, the Commission rejected the 2015 PJM Transmission Owner Tariff Revision as unjust and unreasonable as inconsistent with the cost-causation principle.<sup>19</sup>

12. In addressing remedies, the Commission found:

Because we reject the 2015 PJM Transmission Owner Tariff Revision, we require PJM to make a filing in eTariff to make all tariff corrections necessary to reflect the rejection of the 2015 PJM Transmission Owner Tariff Revision. We also must address the cost assignment of those projects that were included in the RTEP starting on May 25, 2015 solely to address individual transmission owner Form No. 715 local planning criteria. Consistent with our action in the December 2016 Order, we require PJM to correct the cost assignment for projects included in the RTEP solely to address individual transmission owner Form No. 715 local planning criteria that were allocated incorrectly for the period starting on, and continuing after, May 25, 2015. The courts have recognized that section 309 of the FPA provides the Commission with broad remedial authority, including in situations where the Commission has made a legal error. In exercising this remedial authority, the Commission “will

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<sup>16</sup> *Id.* (emphasis in original).

<sup>17</sup> *Id.* at 1262.

<sup>18</sup> *Id.* (citing *Ill. Commerce Comm’n v. FERC*, 756 F.3d 556, 565 (7th Cir. 2014)). The D.C. Circuit further noted that the cost-causation principle requires “comparing the costs assessed against a party to the burdens imposed or benefits drawn by that party.” *Id.* (citing *Midwest ISO Transmission Owners*, 373 F.3d 1361, 1368 (D.C. Cir. 2004)).

<sup>19</sup> Order on Remand, 168 FERC ¶ 61,133 at P 24.

consider whether to require refunds in cost allocation and rate design cases based on the specific facts and equities of each case.”

We find, based on the specific facts and equities of this case, that it is appropriate to require PJM to correct the cost assignments.<sup>20</sup>

## II. Requests for Rehearing and Clarification

13. ODEC and Dominion request clarification that the Order on Remand “requires PJM’s compliance filing to include a calculation of refunds, plus interest, resulting from the reallocation of costs directed by the Commission.”<sup>21</sup> ODEC and Dominion note that the Order on Remand “specifically directed that ‘PJM’s cost assignment corrections must be in accordance [with] 18 C.F.R. § 35.19(a)(2019)’ which is the provision of the Commission’s Regulations which details the requirement to make refunds, plus interest.”<sup>22</sup> In the alternative, if ODEC and Dominion’s request for clarification is denied and the Commission finds that the Order on Remand did not require refunds, ODEC and Dominion request rehearing of this determination.<sup>23</sup>

14. Linden argues that ODEC and Dominion’s Request for Clarification should be rejected because Linden contends that the Order on Remand does not require refunds to be paid. In the alternative, Linden requests rehearing of the Order on Remand.<sup>24</sup> Linden argues that requiring refunds where an error has occurred is discretionary and should not be done where recovering the costs would be difficult and customers have made decisions in reliance on the previous rates.<sup>25</sup> Linden argues that the Commission’s default position is not to require refunds in rate design cases such as this one.<sup>26</sup> Linden argues that it has made fundamental changes to its business model in reliance on the previous rates. Linden states it has shifted transmission withdrawal rights from firm to

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<sup>20</sup> *Id.* PP 29-30 (internal citations omitted).

<sup>21</sup> ODEC and Dominion Request for Clarification at 3-6.

<sup>22</sup> *Id.* at 4 (quoting Order on Remand, 168 FERC ¶ 61,133 at P 29 n. 43).

<sup>23</sup> *Id.* at 6-9.

<sup>24</sup> Linden Answer and Request for Rehearing at 16.

<sup>25</sup> *Id.* at 12-13, 19-22.

<sup>26</sup> *Id.* at 4, 12.

non-firm to avoid RTEP costs related to the Sewaren Project,<sup>27</sup> and entered into a new transmission scheduling rights purchase agreement, premised on the idea that it would not face additional RTEP charges.<sup>28</sup> Further, Linden states that if the Commission grants ODEC and Dominion's Request for Clarification and PJM reverts to its previously-used solution-based DFAX method, then Linden will be burdened with 100 percent of the Sewaren Project costs despite only receiving around 38 percent of the benefits.<sup>29</sup> Linden states that unless the Commission adopts Linden's position, its expenses will exceed its revenues and Linden's economic viability will be impacted.<sup>30</sup>

15. Linden states that the Commission insufficiently explained the basis for its ruling requiring refunds,<sup>31</sup> departed from its own reasoning and principles of cost allocation, and failed to ensure that rates are just and reasonable.<sup>32</sup>

16. Similarly, Con Edison argues that the Commission erred by requiring retroactive correction of costs related to the Sewaren Project, and by failing to differentiate between low- and high-voltage projects when determining equitable remedies.<sup>33</sup> Con Edison argues that the D.C. Circuit focused on high-voltage projects and that the concerns the D.C. Circuit cited "had nothing to do with low-voltage projects" like the Sewaren Project.<sup>34</sup> Con Edison echoes Linden's arguments that PSEG was the true beneficiary of the Sewaren Project.<sup>35</sup> Con Edison argues that, at a minimum, the Commission should "defer its exercise of its refund authority pending its determination, on the merits, of the

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<sup>27</sup> Linden states that the Sewaren Project was a \$125 million low-voltage project undertaken to address the needs of Public Service Electric & Gas Company (PSEG). *Id.* at 4, 8.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.* at 15, 21.

<sup>30</sup> *Id.* at 14.

<sup>31</sup> *Id.* at 22-23.

<sup>32</sup> *Id.* at 23-28.

<sup>33</sup> Con Edison Request for Rehearing at 8-10.

<sup>34</sup> *Id.* at 6.

<sup>35</sup> *Id.* at 9.

multiple cost allocation rehearing requests pertaining to [the Sewaren Project] that remain pending before it.”<sup>36</sup>

### III. Commission Determination

17. Rule 713(d)(1) of the Commission’s Rules of Practice and Procedure prohibits an answer to a request for rehearing.<sup>37</sup> However, the Commission has considered responses to motions for clarification in certain circumstances,<sup>38</sup> and we consider Linden’s answer to ODEC and Dominion’s request for clarification here because it has provided information that aids the Commission in its decision-making process.

#### A. Requirement for Refunds

18. We grant ODEC and Dominion’s request for clarification, and clarify that the Order on Remand requires PJM to rebill parties with interest. The Commission’s Order on Remand stated that “it is appropriate to require PJM to correct the cost assignments” and directed PJM to make a filing in eTariff to make all tariff corrections necessary to reflect the rejection of the 2015 PJM Transmission Owner Tariff Revision, and refile the cost responsibility assignments in Schedule 12-Appendix A.<sup>39</sup> In requiring PJM to correct cost responsibility assignments, the Commission cited to 18 C.F.R. § 35.19(a) (2019), which details the requirements for providing refunds.<sup>40</sup> Thus, the Order on Remand requires PJM to issue refunds dating back to May 25, 2015.

19. We deny Linden’s request for rehearing as to refunds. The Commission has broad remedial authority to correct Commission legal error,<sup>41</sup> and we continue to find that ordering refunds here is appropriate. In fashioning a remedy in this proceeding, the Commission has followed the equitable principle “to regard as being done that which

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<sup>36</sup> *Id.* at 4, 11 (citing *See Consol. Edison Co. of N.Y., Inc. v. PJM Interconnection, L.L.C.*, Request for Rehearing, Docket Nos. EL15-67; ER15-2562-002 (filed May 23, 2016)).

<sup>37</sup> 18 C.F.R. § 385.713(d)(1) (2019).

<sup>38</sup> *See El Paso Nat. Gas Co., L.L.C.*, 152 FERC ¶ 61,039, at P 12 (2015).

<sup>39</sup> Order on Remand, 168 FERC ¶ 61,133 at PP 30-31.

<sup>40</sup> *Id.* P 29 n.43

<sup>41</sup> *Id.* P 29 (citing *Xcel Energy Servs. Inc. v. FERC*, 815 F.3d 947, 954-55 (D.C. Cir. 2016)).



should have been done.”<sup>42</sup> In other words, the Commission found that an equitable remedy is to apply the cost allocation methods that would have been applied had the Commission not committed legal error in accepting the 2015 PJM Transmission Owner Tariff Revision, including the application of the solution-based DFAX method to assign cost responsibility for the Sewaren Project.

20. Linden argues that the Commission’s “default” policy is to reject refunds in cases of rate design.<sup>43</sup> However, as the case cited by Linden notes, the Commission does not have a general policy concerning refunds.<sup>44</sup> Rather, “the Commission will consider whether to require refunds in cost allocation and rate design cases based on the specific facts and equities of each case, even where such refunds must be funded through surcharges on certain parties.”<sup>45</sup> Here, the Commission has found the facts and equities favor refunds. For example, requiring refunds in this case requires only redetermining past payments; it does not involve the difficult issues often associated with the re-running of auctions.<sup>46</sup>

21. Linden maintains that the Commission should not require refunds and surcharges because it made business decisions in reliance on the Commission’s initial cost

allocation.<sup>47</sup> Linden argues further that it shifted its transmission withdrawal rights from firm to non-firm and entered into a new transmission scheduling rights purchase agreement following the February 2016 Order accepting the 2015 PJM Transmission

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<sup>42</sup> *Xcel Energy Servs. Inc.*, 815 F.3d at 954-55.

<sup>43</sup> Linden Answer and Request for Rehearing at 12 (citing *La. Pub. Serv. Comm’n v. FERC*, 883 F.3d 929, 931-33 (D.C. Cir. 2018)).

<sup>44</sup> *La. Pub. Serv. Comm’n*, 883 F.3d at 931 (noting the Commission “has no general policy of ordering refunds in cases of rate design”).

<sup>45</sup> *Black Oak Energy, LLC v. PJM Interconnection, L.L.C.*, 167 FERC ¶ 61,250, at P 27 (2019).

<sup>46</sup> *Compare id.* PP 28-34 (requiring refunds and surcharges when doing so would not require re-running the market) *with PJM Interconnection, L.L.C.*, 161 FERC ¶ 61,252 (2017) (not requiring refunds and surcharges when doing so would entail complicated issues related to re-running auctions), *reh’g denied*, 169 FERC ¶ 61,237 (2019).

<sup>47</sup> Linden Answer and Request for Rehearing at 15 (arguing “if PJM uses the previous [s]olution-based DFAX result for the Sewaren Project, for a period of time PJM will allocate Linden VFT 100 [percent] of the Sewaren Project costs, despite Linden VFT only receiving 38.35 [percent] of the PJM-determined benefits.”).

Owner Tariff Revision.<sup>48</sup> The equities cited by Linden do not favor granting rehearing. Linden made its business decisions with knowledge that the case was on appeal. In similar circumstances, the D.C. Circuit found in *Transcontinental Gas Pipe Line Corp. v. FERC*<sup>49</sup> that the pipeline’s “petition for rehearing . . . put customers on notice that” an alternate rate design might ultimately prevail, just as the rehearing and ensuing court appeal did in this case.<sup>50</sup> While the D.C. Circuit recognized that, during the rehearing period, “every party’s action or inaction involved some risk,” it concluded that in balancing these interests, application of the “right rate, i.e., whatever rate the Commission lawfully determines to be right” seemed most appropriate because “the expectations of those who act in anticipation of the right rate are protected, and they would seem presumptively the most deserving.”<sup>51</sup> In applying a similar balancing here, we continue to conclude that the equities lie in favor of putting the parties in the position in which they would have been had the Commission not erred.

## **B. Application to Lower Voltage Facilities**

22. We deny Con Edison and Linden’s requests for rehearing contending that the Commission should have limited its response on remand solely to high-voltage facilities, and not, in PJM parlance, to Regional Facilities, Necessary Lower Voltage Facilities, and Lower Voltage Facilities. We also deny Con Edison’s rehearing request contending that it is inequitable for it to bear the financial impact of the Sewaren Project costs when Con Edison does not derive any benefit from the project.<sup>52</sup> As an initial matter, we note that the arguments that Con Edison and Linden make here, specifically, arguments that applying the solution-based DFAX method to the Sewaren Project violated principles of cost allocation and otherwise failed to ensure that rates are just and reasonable,<sup>53</sup> are beyond the scope of this proceeding, which relates solely to the section 205 filing regarding cost responsibility assignments for Form No. 715 local planning criteria projects. Con Edison and Linden’s concerns regarding the application of the solution-

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<sup>48</sup> Linden Answer and Request for Rehearing at 13.

<sup>49</sup> 54 F.3d 893 (D.C. Cir. 1995).

<sup>50</sup> *Id.* at 899.

<sup>51</sup> *Id.*

<sup>52</sup> Con Edison Request for Rehearing at 9-10.

<sup>53</sup> Linden Answer and Request for Rehearing at 25-28; Con Edison Request for Rehearing at 8-10.

based DFAX method to the Sewaren Project have been raised in other proceedings, and the Commission has made determinations in those proceedings.<sup>54</sup>

23. We also are not persuaded by Linden and Con Edison's arguments that the Commission should have distinguished between high-voltage and low-voltage projects in the Order on Remand.<sup>55</sup> Contrary to Linden and Con Edison's arguments,<sup>56</sup> the D.C. Circuit's ruling in *Old Dominion* did not apply only to high-voltage projects. While the court's discussion focused on high-voltage projects, the court also more broadly found that the 2015 PJM Transmission Owner Tariff Revision "denies cost sharing for *all* projects included in the Regional Plan only to satisfy the planning criteria of individual utilities — *including* for high-voltage lines."<sup>57</sup> Moreover, the 2015 PJM Transmission Owner Tariff Revision expressly applied both to Lower Voltage Facilities as well as Regional and Necessary Lower Voltage Facilities.<sup>58</sup> PJM's Tariff uses the solution-based DFAX method to determine whether transmission facilities have benefits outside of the zone of the transmission owner constructing the project and allocates costs to zones based on the application of that methodology.<sup>59</sup> Because the benefits of Lower Voltage Facilities may accrue to other zones, we do not see a basis for limiting cost allocation for Lower Voltage Facilities planned under Form No. 715 local planning criteria to only the local zone of the constructing transmission owner.

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<sup>54</sup> *Linden VFT, LLC v. PJM Interconnection, L.L.C.*, 155 FERC ¶ 61,089, at PP 55 (2016), *reh'g denied*, 170 FERC ¶ 61,122, at PP 34-42, 68 (2020).

<sup>55</sup> Linden Answer and Request for Rehearing at 23; Con Edison Request for Rehearing at 10 (asserting that "the August 30 Order should have differentiated between low- and high-voltage projects, at least with respect to the grant of equitable remedies").

<sup>56</sup> Con Edison Request for Rehearing at 6-7.

<sup>57</sup> *Old Dominion*, 898 F.3d at 1261 (emphasis in original).

<sup>58</sup> In the panel opinion on rehearing, the D.C. Circuit also recognized that because it "set aside FERC's approval of the proposed tariff amendment, the unamended tariff remains in effect." *Old Dominion*, 905 F.3d 671. As stated in the Order on Remand, "[b]ecause the 2015 PJM Transmission Owner Tariff Revision proposes a blanket rule applicable to projects included in the RTEP solely to address individual transmission owner Form No. 715 local planning criteria that is inconsistent with the cost-causation principle, we reject the 2015 PJM Transmission Owner Tariff Revision in its entirety." Order on Remand, 168 FERC ¶ 61,133 at P 27.

<sup>59</sup> PJM, Intra-PJM Tariffs, Schedule 12, OATT Schedule 12, 14.0.0, § (b)(ii).

The Commission orders:

(A) ODEC and Dominion's request for clarification is hereby granted, as discussed in the body of this order.

(B) Con Edison's and Linden's respective requests for rehearing are hereby denied, as discussed in the body of this order.

By the Commission. Commissioner Danly is not participating.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.